

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

WALTER BETSCHART, JOSHUA
SHANE BARTLETT, CALEB AIONA,
TYRIK DAWKINS, JOSHUA JAMES-
RICHARDS, TANIELA KINI KIN LATU,
RICHARD OWENS, LEON MICHAEL
POLASKI, ALEX SARAT XOTOY,
TIMOTHY WILSON, JEFFREY DAVIS,
RICHARD AARON CARROLL, SR.,
JENNIFER LYN BRUNETTE, NICHOLAS
WALDBILLIG, DEREK PIMENO
ZAVALA, CURTIS RAY ANTHONY
REMINGTON, CRISTA JEAN DAVIS,
NICHOLE LYNN WHALEN, *and* JACOB
ISAAC NATHANIEL COLE, *on their
behalf, and on behalf of all others similarly
situated,*

Plaintiffs,

vs.

SHERIFF PATRICK GARRETT,
*Washington County Sheriff, in his official
capacity, and* WASHINGTON COUNTY
CIRCUIT COURT JUDGES, *in their
official capacities, and* THE STATE OF
OREGON,

Defendants.

Case No.: 3:23-cv-01097-CL

PROPOSED AMENDED OPINION
AND ORDER

MCSHANE, J.:

The proposed amended order would go into effect 21 calendar days from the date of the preliminary injunction order, which was issued on November 2, 2023.

1. This amended order, as with the preliminary injunction order, applies to the following “Custody Class” of individuals who are or will be:
 - (1) indigent and unable to afford an attorney, (2) facing criminal charges in Oregon, and (3) who are physically housed in a jail in Oregon.
2. If counsel is not secured within seven days of the initial court appearance for any member of the Custody Class, the sheriff of that county is ordered to release the class member from custody.
3. If counsel is secured within the seven-day period but subsequently withdraws due to a conflict within that period, new counsel must be secured within seven days of the withdrawal. If new counsel is not secured within the seven-day period following withdrawal, the sheriff of that county is ordered to release the class member.
4. This order does not apply to class members who fire their attorney.
5. As explained in the Court’s opinion, this order does not impact the provisions of Article I, Section 43 of the Oregon Constitution. This order does not apply to crimes of murder and aggravated murder.
6. Released class members are subject to the conditions of release set forth in ORS § 135.250 and any other conditions that the Circuit Court may impose that are related to assuring the appearance of the class member and the safety of the community.
7. If the appellate courts or post-conviction-release courts remand an in-custody class member to the circuit court for a new trial, the seven-day period in which counsel must be appointed will begin at the class member’s appearance in circuit court.
8. The Circuit Court shall ensure that a release agreement is presented to and executed by the class member at the time of their release. Failure of the class member to execute the release agreement will result in the continued detention of the class

member. Failure of the class member to abide by the conditions of release set forth in the release agreement may result in the revocation of their release. If release is revoked, the class member is not entitled to a new seven-day period for appointment of counsel. The Circuit Court retains its statutory authority to impose release conditions on pre-trial class members and to enforce compliance with those conditions.

IT IS SO ORDERED.

Dated this ____ day of November, 2023.

Michael McShane
United States District Judge